

# BURN BAN GUIDELINES

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*A local burn ban may only be issued upon a declaration of a local emergency or disaster pursuant to N.D.C.C. § 37-17.1-10.* A burn ban is a temporary ban on open burning during extended periods of elevated fire danger due to wide spread amounts of dry natural vegetation compounded by contributing weather conditions and/or outdoor activities.

Although the legislature did not define open burning, the legislative history and common understanding of the term indicates that “open burning” means the burning of any type of combustible material directly into the open air. It includes any outdoor fire, pyrotechnic or flame producing apparatus that has the potential to emit sparks or airborne embers that could present a source of ignition to surrounding outdoor natural or man-made materials. It also includes campfires; charcoal grill or barbecue pit fires; fireworks; garbage pit fires; prescribed burning of prairie, croplands, structures or underbrush in forested areas; outdoor welding operations; burning chemically treated or industrial materials that cannot be easily extinguished; or outdoor fires of any size.

Burn Ban declarations can specify restrictions on certain types of open burning in an effort to accommodate seasonal activities or holiday events, or in extreme cases can specify “No outdoor burning of ANY kind,” indicating no exposed flame outside of a building.

Fire season in North Dakota typically begins in April and ends in October. Seasonal activity can be expected; but when conditions are very dry or fire response resources are depleted, additional measures may be necessary to prevent fires. The Fire Danger Guide, located on the N.D. Department of Emergency Services website, provides outdoor restriction guidelines.

When conditions deteriorate to the point of creating abundant natural fuel conditions with a high Energy Release Component (ERC), the North Dakota Fire Council will scientifically analyze this condition and recommend specific counties and tribal nations be placed in the extreme category, regardless of daily weather conditions such as temperature, humidity, wind speed and cloud cover. Open burning may only be prohibited and penalties enforced during a declared emergency, e.g. during periods of extreme fire danger.

Local governments, as well as the Governor, have authority to issue a burn ban under the Emergency Services chapter of the North Dakota Century Code. As an example on the local level, a burn ban could be issued when the fire danger is below the extreme category, but local and mutual aid fire resource capabilities

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have been severely diminished by continual response to multiple area fires created by a combination of weather conditions, abundance of dry natural vegetative or man-made materials and local activities such as holiday celebrations, hunting and/or camping. To protect property and provide for the safety and well-being of citizens, a fire or drought emergency declaration with burn ban documentation could be declared until capabilities to fight fires have been restored and/or conditions improve.

When making a determination to activate burn ban restrictions and penalties, it is recommended county and/or city officials collaborate with local, state and federal entities, such as:

- Local/tribal fire officials
- Local/tribal emergency management
- Local/tribal law enforcement
- National Weather Service (NWS)
- North Dakota Forest Service, Fire Management
- State Fire Marshal's Office
- U.S. Forest Service or U.S. Park Service, if these agencies have land in your jurisdiction.

These agencies can provide the following guidance:

- The NWS issues the Rangeland Fire Danger Index on a daily basis during fire season. The index is based upon fire forecasting information using recent rainfall, vegetation, temperature, humidity, wind speed and cloud cover to make the determination for the designated fire danger category.
- The N.D. Forest Service and the State Fire Marshal's Office will provide technical assistance to rural fire departments and communities to enhance wildland fire awareness, prevention and suppression to ensure the protection of people, property and natural resources.
- Local/Tribal Fire Department officials will provide information regarding equipment and personnel readiness and information on area fire conditions.
- Local/Tribal Emergency Management officials will provide information regarding local conditions or activities that may compound the seriousness of a fire threat, and will ensure community fire hazard awareness.

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- Local/Tribal Law Enforcement involvement is important since officers will be responsible for enforcement of burn ban penalties.
- The U.S. Forest Service and National Park Service have authority to issue fire restrictions on their lands. Consult these agencies to review conditions and plans.
- When fire danger conditions, response capabilities and enforcement criteria have been agreed upon, after collaboration by all entities involved in monitoring local conditions, a burn ban proclamation must be prepared, in most instances by the tribal/local Emergency Manager under the direction of local fire officials, for the county commissioners or tribal council to document reasons for the decision and to inform the public of burning restrictions and enforcement penalties.
- A burn ban is only in effect for seven days if initial documentation is signed only by a principal executive officer of the county or city commission in the absence of a majority of commission members. It may not be continued or renewed for a period in excess of seven days except by or with the consent of the governing board of the county or city.
- A burn ban should be rescinded when fire danger conditions have improved and/or previously diminished fire response capabilities have been restored.

### **Resources:**

- Emergency Services Chapter of the N.D. Century Code  
<http://www.legis.nd.gov/cencode/t37c171.pdf>
- Fire Danger Guide  
<http://www.nd.gov/des/info/docs/fire-danger-guide.pdf>